

§ 1016.4

10 CFR Ch. X (1–1–01 Edition)

142(d) of the Atomic Energy Act of 1954, as amended.

(j) *Infraction*. An act or omission involving failure to comply with DOE safeguards and security orders or directives, and may include a violation of law.

(k) *Intrusion alarm*. A tamper-indicating electrical, electro-mechanical, electro-optical, electronic or similar device which will detect unauthorized intrusion by an individual into a building or security area, and alert protective personnel by means of actuated visible and audible signals.

(l) *Material*. A chemical substance without regard to form; fabricated or processed item; or assembly, machinery, or equipment.

(m) *Matter*. Documents or material.

(n) *National Security*. The national defense and foreign relations of the United States.

(o) *National Security Information*. Information that has been determined pursuant to Executive Order 12356 of April 2, 1982, “National Security Information” or any predecessor order to require protection against unauthorized disclosure and that is so designated.

(p) *“Need to know.”* A determination by persons having responsibility for classified information or matter, that a proposed recipient’s access to such classified information or matter is necessary in the performance of official, contractual, or access permit duties of employment under cognizance of the DOE.

(q) *Permittee*. The holder of an Access Permit issued pursuant to the regulations set forth in 10 CFR part 725, “Permits For Access to Restricted Data.”

(r) *Person*. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than DOE, any State or any political subdivision of, or any political entity within a State, or other entity; and any legal successor, representative, agency, or agency of the foregoing.

(s) *Protective personnel*. Guards or watchmen or other persons designated responsibility for the protection of classified matter.

(t) *Restricted Data*. All data concerning design, manufacture, or utilization of atomic weapons; the produc-

tion of special nuclear material; or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to section 142 of the Act.

(u) *Security area*. A physically defined space containing classified matter and subject to physical protection and personnel access controls.

(v) *Security clearance*. See access authorization.

(w) *Security facility*. Any facility, including an access permittee, which has been approved by the DOE for using, processing, storing, reproducing, transmitting, or handling classified matter.

(x) *Security facility approval*. A determination by the DOE that a facility, including an access permittee, is eligible to use, process, store, reproduce, transmit, or handle classified matter.

(y) *Security Plan*. A written plan by the access permittee, and submitted to the DOE for approval, which outlines the permittee’s proposed security procedures and controls for the protection of Restricted Data and which includes a floor plan of the area in which the matter is to be used, processed, stored, reproduced, transmitted, or handled.

(z) *Security survey*. An onsite examination by a DOE representative of all devices, equipment, and procedures employed at a security facility to safeguard classified matter.

§ 1016.4 Communications.

Communications concerning rule-making, i.e., petition to change part 1016, should be addressed to the Assistant Secretary for Defense Programs (DP-1), U.S. Department of Energy, Washington, D.C. 20545. All other communications concerning the regulations in this part should be addressed to U.S. Department of Energy Operations Offices as listed in appendix B of 10 CFR part 725, administering access permits for the geographical area.

§ 1016.5 Submission of procedures by access permit holder.

No access permit holder shall have access to Restricted Data until he shall have submitted to the DOE a written statement of his procedures for the safeguarding of Restricted Data and for

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the security education of his employees, and DOE shall have determined and informed the permittee that his procedures for the safeguarding of Restricted Data are in compliance with the regulations in this part and that his procedures for the security education of his employees, who will have access to Restricted Data, are informed about and understand the regulations in this part.

§ 1016.6 Specific waivers.

DOE may, upon application of any interested party, grant such waivers from the requirements of this part as it determines are authorized by law and will not constitute an undue risk to the common defense and security.

§ 1016.7 Interpretations.

Except as specifically authorized by the Secretary of Energy in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of DOE other than a written interpretation by the General Counsel will be recognized to be binding upon DOE.

PHYSICAL SECURITY

§ 1016.8 Approval for processing access permittees for security facility approval.

(a) An access permittee who has a need to use, process, store, reproduce, transmit, or handle Restricted Data at any location in connection with its permit shall promptly request a DOE security facility approval.

(b) The request shall include the following information: The name and address of the permittee; the extent and scope of the classified activity and the highest classification of Restricted Data to be received; a written statement in the form of a security plan which outlines the permittee's proposed security procedures and controls for the protection of Restricted Data, including a floor plan of the areas(s) in which the classified matter is to be used, processed, stored, reproduced, transmitted, and handled.

(c) The DOE will promptly inform the permittee of the acceptability of the request for further processing and will

notify the permittee of its decision in writing.

§ 1016.9 Processing security facility approval.

The following receipt of an acceptable request for security facility approval, the DOE will perform an initial security survey of the permittee's facility to determine that granting a security facility approval would be consistent with the national security. If DOE makes such a determination, security facility approval will be granted. If not, security facility approval will be withheld pending compliance with the security survey recommendations or until a waiver is granted pursuant to § 1016.6 of this part.

§ 1016.10 Grant, denial, or suspension of security facility approval.

Notification of the DOE's grant, denial, or suspension of security facility approval will be furnished the permittee in writing, or orally with written confirmation. This information may also be furnished to representatives of the DOE, DOE contractors, or other Federal agencies having a need to transmit Restricted Data to the permittee.

§ 1016.11 Cancellation of requests for security facility approval.

When a request for security facility approval is to be withdrawn or cancelled, the DOE Operations Office will be notified by the requester immediately by telephone and confirmed in writing so that processing of this approval may be terminated.

§ 1016.12 Termination of security facility approval.

Security facility approval will be terminated when:

(a) There is no longer a need to use, process, store, reproduce, transmit, or handle Restricted Data at the facility; or

(b) The DOE makes a determination that continued security facility approval is not in the interest of national security.

In such cases the permittee will be notified in writing of the determination, and the procedures outlined in § 1016.39 of this part will apply.